

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SHEILA LYONS, DVM and)
HOMECOMING FARMS INC.,)
Plaintiffs,)
v.) Civil Action No. 1:11-cv-12192
THE AMERICAN COLLEGE OF)
VETERINARY SPORTS MEDICINE)
AND REHABILITATION, INC. and)
THE AMERICAN VETERINARY)
MEDICAL ASSOCIATION, INC.,)
Defendants.)

)

DECLARATION OF DAVID A. KLUFT, ESQ.
IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

I, David A. Kluft, declare and state as follows:

1. I am a partner at Foley Hoag LLP. I represent the American College of Veterinary Sports Medicine and Rehabilitation (the “College”) in the above-captioned matter. I submit this declaration in support of the College’s Motion for Summary Judgment.
2. Attached as **Exhibit A** is the affidavit of Dr. Robert Gillette.
3. Attached as **Exhibit B** are true and correct excerpts from the Deposition of Dr. Sheila Lyons, the plaintiff.
4. Attached as **Exhibit C** are true and correct excerpts from the Deposition of Dr. Elisabeth Sabin, the 30(b)(6) witness for the American Veterinary Medical Association (“AVMA”).
5. Attached as **Exhibit D** are true and correct excerpts from the Deposition of Dr. Larry Dee.

6. Attached as **Exhibit E** is a true and correct copy of Exhibit 47 from the Deposition of Dr. Sabin, which consists of an email and the May 2003 version of the Policies and Procedures of the AVMA's American Board of Veterinary Specialties ("ABVS").
7. Attached as **Exhibit F** is a true and correct copy of Exhibit 48 from the Deposition of Dr. Sabin, which contains a list of Recognized Veterinary Specialty Organizations.
8. Attached as **Exhibit G** is a true and correct copy of Exhibit 10 from the Deposition of Dr. Lyons, which contains the College's letter of intent to the AVMA.
9. Attached as **Exhibit H** is a true and correct copy of Exhibit 50 from the Deposition of Dr. Sabin, which contains an email from Dr. Sabin to Dr. Lyons.
10. Attached as **Exhibit I** is a true and correct excerpt of Exhibit 42 from the Deposition of Dr. Lyons, which contains documents pertaining to the College's May 18, 2004 meeting in Chicago, Illinois.
11. Attached as **Exhibit J** is a true and correct copy of a document produced by the College in this action, bates stamped ACVSMR000937-942.
12. Attached as **Exhibit K** is a true and correct copy of Exhibit 16 from the Deposition of Dr. Dee, which contains an email and draft of the College's bylaws.
13. Attached as **Exhibit L** is a true and correct copy of Exhibit 52 from the Deposition of Dr. Sabin, which contains the College's 2008 petition to the AVMA.
14. Attached as **Exhibit M** are a true and correct copies of Exhibits 54 and 55 from the Deposition of Dr. Sabin, which consist of announcements about the College sent out by the AVMA.
15. Attached as **Exhibit N** is a true and correct excerpt of Exhibit 3 from the Deposition of Dr. Lyons, which contains plaintiffs' answers to interrogatories.
16. Attached as **Exhibit O** is a true and correct excerpt of Exhibit 15 from the Deposition of Dr. Lyons, which includes the materials she registered with the Copyright Office.
17. Attached as **Exhibit P** is a true and correct excerpt of an Affidavit Dr. Lyons submitted to this Court, along with Exhibit M from that Affidavit.

18. Attached as **Exhibit Q** is a true and correct copy of a Verified Complaint filed by Dr. Lyons in the Plymouth Superior Court on or about June 23, 2008.
19. Attached as **Exhibit R** is a true and correct copy of an Affidavit filed by Dr. Lyons in the Plymouth Superior Court action.
20. Attached as **Exhibit S** is a true and correct copy of an motion filed by Dr. Lyons in the Plymouth Superior Court action.
21. Attached as **Exhibit T** are true and correct copies of Exhibits 23 and 24 from the deposition of Dr. Gillette, consisting of two letters Dr. Gillette received in 2009.
22. During Dr. Lyons' deposition in this case, I learned that she had previously filed a complaint in the Plymouth Superior Court. I subsequently caused copies of documents in that case to be obtained from that Court, which included Exhibits Q, R and S hereto. These documents were not produced by Dr. Lyons in this action.
23. To the best of my knowledge, Dr. Lyons has not produced any documents in this action pertaining to her personal finances, including her veterinary practice.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

/S/ David A. Kluft
David A. Kluft

Dated: March 1, 2013

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on the above date.

/s/ David A. Kluft